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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS CAMERON
KINCADE,

Defendant and Appellant.

2d Crim. No. B299682
(Super. Ct. No. F419316001)
(San Luis Obispo County)

Thomas Cameron Kincade appeals from denial of his petition and motion seeking recall of his sentence. (Pen. Code,¹ §§ 1170.91, 1170, subd. (d).)

Kincade and Tino Ortega Simmons robbed a bank, during which they forced a customer to enter the bank, took property from a customer, forced eight employees and customers to lie on the floor, and forced an employee to give them cash from the vault.

¹ All further statutory references are to the Penal Code.

Kincade was convicted following a jury trial of kidnapping for robbery (§ 209, subd. (b)), two counts of robbery (§ 211), and eight counts of false imprisonment (§ 236), with enhancements for personal use of a firearm (§ 12022.53, subd. (b)), a prior serious felony conviction (§ 667, subd. (a)) and a prior strike (§§ 667, subd. (e)(2), 1170.12). He was sentenced to state prison for 55 years 4 months to life. The judgment was affirmed on appeal. (*People v. Kincade* (Nov. 1, 2011, B227799) [nonpub. opn.])

In 2019, Kincade filed a petition seeking recall of his sentence pursuant to section 1170.91, alleging “injuries” as a result of military service. He also filed a motion for recall of his sentence making claims including lack of jurisdiction. (§ 1170, subd. (d)(1).) The trial court denied the petition and motion.

We appointed counsel to represent Kincade in this appeal. After examining the record, counsel filed an opening brief that raises no arguable issues. We advised Kincade that he had 30 days to personally submit any contentions or issues he wished us to consider. Kincade filed a supplemental brief in which he contends federal courts have exclusive jurisdiction over bank robbery, and the charging document failed to state the basis for jurisdiction. These contentions lack merit.

State and federal courts have concurrent jurisdiction for bank robbery. (*Bartkus v. People of State of Illinois* (1959) 359 U.S. 121, 133, fn. 22; *People v. Candelaria* (1956) 139 Cal.App.2d 432, 435-436; see *Driscoll v. Superior Court* (2014) 223 Cal.App.4th 630, 637 [presumption of concurrent state and federal court jurisdiction].) The Information contained jurisdictional allegations that the robberies were committed in the County of San Luis Obispo. This is sufficient. (§ 777.)

We have reviewed the entire record and are satisfied that Kincade's attorney has fully complied with his responsibilities and that no arguable issue exists. (*People v. Wende* (1979) 25 Cal.3d 436, 441; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Matthew G. Guerrero, Judge

Superior Court County of San Luis Obispo

Richard B. Lennon, under appointment by the Court
of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.